

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

SOUTHERN STAIRCASE OF NORTH
CAROLINA, INC., a Georgia corporation,

Plaintiff,

v.

Civil Action No.: 3:07-cv-00471

CHARLES P. BROWN and WILLIAM
DAVIS,

Defendants.

**ORDER COMPELLING ELEMENT STAIRS, INC.
TO COMPLY WITH SUBPOENA DUCES TECUM**

On February 9, 2008 this Court entered an order permitting the parties to issue subpoenas to third parties.

On March 18, 2008 Plaintiff served a subpoena duces tecum on nonparty Element Stairs, Inc. requiring production by April 2, 2008 of the following documents:

1. Any and all documents, including but not limited to e-mail correspondence, design specifications, design drawings, invoices, purchase orders and/or payroll records concerning or pertaining to Mr. William ("Willie") Davis.
2. Any and all documents, including but not limited to e-mail correspondence, design specifications, design drawings, invoices, purchase orders, and/or payroll records concerning or pertaining to Mr. Charles ("Chuck") P. Brown.
3. Any and all documents, including but not limited to e-mail correspondence, design specifications, design drawings, invoices and/or purchase orders concerning or pertaining to Elite Classical Design.

Element Stairs, Inc. failed to provide documents or respond in any manner by the April 2, 2008 deadline.

After seeking compliance from Element Stairs by letter on two occasions, Plaintiff filed a motion to compel Element Stairs, Inc.'s compliance with the subpoena on May 23, 2008. Element Stairs, Inc. has failed to respond to Plaintiff's Motion to Compel or provide any excuse for its failure to comply.

On June 23, 2008, Element Stairs, Inc. sent Plaintiff a letter with four documents attached claiming this was all of the records that had been "issued or received" from Defendant Brown and Defendant Davis. The few documents received only reflect payments made by Element Stairs to the Defendant Brown and Defendant Davis. The documents provided by Element Stairs, Inc. woefully fail to encompass all of the documents concerning or pertaining to Defendant Brown and Defendant Davis as required by the subpoena.

The Court being fully advised hereby ORDERS Element Stairs, Inc. to provide any and all documents in its possession and/or control as requested in Attachment A to the subpoena and as set forth above. Accordingly and to avoid any misunderstandings, Element Stairs, Inc. is hereby specifically ORDERED to provide any and all:

1. Design drawings and/or specifications Defendant Brown and/or Defendant Davis worked on, drew or utilized in any manner to install stairs directly or that were utilized by others working at Defendant Brown or Defendant Davis' direction.
2. Documents reflecting compensation paid by any individual or entity to Element Stairs, Inc. for any work done in whole, or in part, by Defendant Brown, Defendant Davis, Elite Classical Design or others working at the direction of Defendant Brown and/or Defendant Davis.
3. Documents reflecting correspondence or communications between any individual or entity and any customer for stairs and/or stair installation services that were solicited by Defendant Brown and/or Defendant Davis or for whom Defendant Brown or Defendant Davis

performed any services.

4. Documents reflecting or memorializing the work and/or services performed by Defendant Davis, Defendant Brown and/or Elite Classical Design, including but not limited to, the work performed in return for payments made by Element Stairs, Inc. to Defendant Brown, Defendant Davis and/or Elite Classical Design.

5. Documents reflecting correspondence and/or communications between Defendant Brown, Defendant Davis and/or Elite Classical Design and any person or entity.

Element Stairs, Inc. is hereby ORDERED to fully comply with this order by producing all of the documents described herein within seven (7) business days of entry of this Order. Element Stairs, Inc.'s failure to abide fully with the terms of this Order may result in Element Stairs, Inc. being found in contempt of this Court.

Signed: July 1, 2008

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

